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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
AT TACOMA

10 Curlin Pennick III,

11 Plaintiff,

12 v.

13 Barry DeHaven,

14 Defendant.

CASE NO. 3:18-cv-05434-BHS-
DWC

ORDER STRIKING SURREPLY

15 The District Court has referred this action, filed pursuant to 42 U.S.C. § 1983, to United
16 States Magistrate Judge David W. Christel. On July 2, 2019, Plaintiff Curlin Pennick III filed a
17 surreply to Defendant's Reply to Plaintiff's Response to Defendant's Third Motion for Summary
18 Judgment. Dkt. 89. On July 3, 2019, Defendant filed a Notice of Intent to File a Surreply. Dkt.
19 90. On July 5, 2019, Defendant filed a surreply and a Motion to Strike Plaintiff's Surreply. Dkt.
20 91.

21 Pursuant to Local Rule CR 7(g)(2), surreplies are limited to requests to strike material
22 contained in or attached to a reply brief. "Extraneous argument or a surreply filed for any other
23 reason will not be considered." *Id.*; *see also Hernandez v. Stryker Corp.*, 2015 WL 11714363, at
24

1 *2 (W.D. Wash. Mar. 13, 2015). Plaintiff does not request to strike material contained in
2 Defendant's Reply; rather, he provides additional argument. *See* Dkt. 89. Although Plaintiff
3 contends Defendant raised for the first time in his Reply brief an argument regarding Plaintiff's
4 ability to purchase food through the commissary, Plaintiff's commissary purchases were
5 addressed in Defendant's Third Motion for Summary Judgment and the attached declarations.
6 *See* Dkt. 71 at 6; Dkt. 76-1 (Declaration of Salina Brown), Exhibits 2, 3.

7 Therefore, the Court grants Defendant's Motion to Strike Plaintiff's Surreply (Dkt. 91)
8 and directs the Clerk to strike Plaintiff's surreply (Dkt. 89). The Court will not consider Docket
9 Entry 89 when ruling on Defendant's Third Motion for Summary Judgment (Dkt. 71).

10 Dated this 16th day of July, 2019.

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13 David W. Christel
14 United States Magistrate Judge
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